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PTQ/SB/21 (09-04)

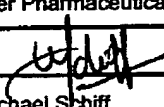
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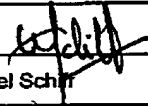
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/162,648
	Filing Date	September 29, 1998
	First Named Inventor	John C. Hiserodt
	Art Unit	1632
	Examiner Name	Shin-Lin Chen, Ph.D.
	Attorney Docket Number	SEQ2
Total Number of Pages in This Submission	15	

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information (7 pages) <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks Other enclosures: 1. Notice to File Corrected Application Pages (1 page) 2. Response to Notice (3 pages) 3. Copies of previously filed formal documents, including Declaration (8 pages) 4. Petition (3 pages) 5. Last page marker (1 page)		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Meyer Pharmaceuticals LLC		
Signature			
Printed name	J. Michael Schiff		
Date	December 1, 2005	Reg. No.	40,253

CERTIFICATE OF TRANSMISSION/MAILING	
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:	
Signature	
Typed or printed name	J. Michael Schiff
Date	Dec 3/05 EST

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being transmitted to the U.S. Patent & Trademark Office
in accordance with 37 CFR § 1.6(d) on the date indicated.

Name

Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of: John C. Hiserodt

Serial No.: 09/162,648

Filing Date: September 29, 1998

For: CANCER IMMUNOTHERAPY USING
ALLOSTIMULATED CELLS IN A MULTIPLE
SEQUENTIAL IMPLANTATION STRATEGY

Art Unit: 1632

Examiner: Shin-Lin Chen, Ph.D.

PETITION FOR EXTENSION OF TIME**OR****PETITION TO REVIVE APPLICATION**

Commissioner for Patents
Alexandria VA 22313

Dear Sir,

For reasons explained below, applicant hereby petitions the Office under 37 CFR § 1.181(a) and 1.136(a)(1) to extend the time for responding to the Notice to Correct Application Papers mailed October 20, 2005 by one month.

In the alternative, applicant petitions the Office under 37 CFR § 1.137(b) to revive this application as having been unintentionally abandoned.

PATENT
USSN 09/162,648
Docket SEQ-2

Context

This application was filed on September 29, 1998. It has been pending before the Office for over seven years, and has gone through at least six Office Actions on the merits. The application was allowed on April 21, 2005, and the issue fee was paid on July 20, 2005. Issuance of the application was anticipated by the patent owner in the fall of 2005.

However, the Office mailed the Notice to Correct Application Papers on October 20, 2005, requiring two last-minute changes to the file. A Declaration under 37 CFR § 1.63 was requested. This would seem unnecessary, because a Declaration signed by the inventor (dated May 12, 1999) was filed in the application in 1999 in response to the Notice to file Missing Parts, and the Notice did not indicate whether and how the original Declaration was defective. The Notice also required correction to the priority information provided on Page 1 of the specification.

The undersigned was admitted to hospital on October 29 with abnormal heart rhythm. The condition was treated successfully after two days. Unfortunately, I presented at the hospital on November 10, again with abnormal heart rhythm. I was stabilized using pharmacological agents and released from the hospital, but was not treated to restore normal heart rhythm until November 21. I am now scheduled to undergo an ablation procedure at the hospital later in December.

During the period from November 10 to November 22, I did no professional work in the office from which I prosecute the patents owned or licensed to Meyer Pharmaceuticals. I did not review the Meyer Pharmaceuticals docket until November 23, when I discovered the missed deadline.

Accompanying this Petition is a response to the Notice.

Petition

Applicant respectfully submits that under the circumstances, it was unreasonable for the Notice to impose a 30-day deadline *without the possibility of an extension of time*.

The usual extensions available under 37 CFR § 1.136(a)(1) accommodate professional responsibilities, and family and personal health considerations that represent the normal flux of events for a sole practitioner. To depart from the usual standard by imposing both a short deadline and no extensions can create a serious hardship — as it has proven to be in the present instance.

Surely it is unreasonable to impose such a short deadline on applicant's representative so close to the issue date, since the purported defects could have been identified by the Office any time during the past six years.

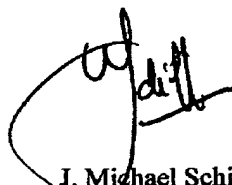
PATENT
USSN 09/162,648
Docket SEQ-2

In the event that the petition to extend the time is denied and the application is deemed abandoned, applicant hereby petitions the Office under 37 CFR § 1.137(b) to revive this application.

Applicant respectfully requests that this application be issued as an enforceable U.S. Patent as soon as reasonably possible.

The Office is hereby authorized to charge the cost of any petition fees that may be required under 37 CFR §§ 1.181(a), 1.136(a)(1), or 1.137(b) to Deposit Account 50-3320, referencing docket code SEQ-2.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Michael Schiff', is written over a circular stamp or seal.

J. Michael Schiff
Registration No. 40,253

Meyer Pharmaceuticals LLC
1761 Kaiser Avenue
Irvine, CA 92616
Phone: 650-327-0960

December 1st, 2005

10/25/05 12:17 FAX 949 833 8664

MEYER PHARMACEUTICALS

003



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Serial Number
09162648

Date Mailed
10/20/05

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Notice of Allowance Mailed


This application has been accorded an Allowance Date and is being prepared for issuance. The application, however, is incomplete for the reasons below.

Applicant is given 30 days from the mail date of this Notice within which to correct the informalities indicated below. A failure to reply will result in the application being ABANDONED. This period for reply is NOT extendable under 37 CFR 1.136 (a) or (b).

- Signed oath/declaration is missing from application.
- Specification page 1, line 9 missing serial number.

APPLICANT MUST SUPPLY MISSING INFORMATION WITHIN 30 DAYS OF THE MAIL DATE OF THIS NOTICE.

A copy of this notice **MUST** be returned with the reply. Please address response to Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450


Rori Burch
USPTO
Publishing Division
Fax (703) 746-6830
Fax (703) 308-6642
703-305-0333 ext.135 (V)

10/25/2005 TUE 13:23 [TX/RX NO 5144] 003

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in accordance with 37 CFR § 1.6(d) on the date indicated.

Name

Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of: John C. Hiserodt

Serial No.: 09/162,648

Filing Date: September 29, 1998

For: CANCER IMMUNOTHERAPY USING
ALLOSTIMULATED CELLS IN A MULTIPLE
SEQUENTIAL IMPLANTATION STRATEGY

Art Unit: 1632

Examiner: Shin-Lin Chen, Ph.D.

RESPONSE TO NOTICE TO CORRECT APPLICATION PAPERS

Commissioner for Patents
Alexandria VA 22313

Dear Sir,

This paper and the enclosed documents are responsive to the Notice mailed October 20, 2005. Accompanying this paper is a Petition under 37 CFR § 1.181(a) and 1.136(a)(1) to extend the time for responding to the Notice, and a contingent Petition 37 CFR § 1.137(b) to revive the application in the event that the extension of time is denied.

Please enter the following amendments and remarks.

PATENT
00/000,000
Docket

AMENDMENT TO SPECIFICATION

Please amend the cross-reference to related applications (page 1, lines 5-10 of the specification as filed) as follows:

CROSS REFERENCE TO RELATED APPLICATIONS

This application claims priority benefit under 35 USC § 119(e) to U.S. provisional application numbers 60/061,622 filed October 10, 1997, 60/061,766 filed October 10, 1997 ~~and (not yet assigned)~~, and 60/102,175, filed September 28, 1998. The contents of these applications are incorporated herein by reference in their entirety.

PATENT
00/000,000
Docket

REMARKS

Correction of priority information

By way of the amendment to the specification indicated above, the serial number of the provisional application filed September 28, 1998 is provided.

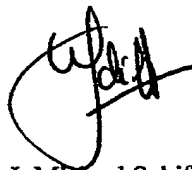
Declaration

Enclosed herewith is a copy of the Declaration under 37 CFR § 1.63, along with the other papers previously filed in this application in 1999 in response to the Notice to File Missing Parts.

Applicant respectfully requests that this application be issued as an enforceable U.S. Patent as soon as reasonably possible.

Authorization is given in the accompanying Petition to charge the petition fees to applicant's deposit account. Should the Patent Office determine that a further extension of time or any other relief is required for further consideration of this application, applicant hereby petitions for such relief, and authorizes the Commissioner to charge the cost of any fees needed to keep the application pending and have it issued as a U.S. Patent, to Deposit Account 50-3320.

Respectfully submitted,



J. Michael Schiff
Registration No. 40,253

Meyer Pharmaceuticals LLC
1761 Kaiser Avenue
Irvine, CA 92616
Phone: 650-327-0960

December 1st, 2005

COPYPATENT
Docket No. 337452001100**DECLARATION FOR UTILITY PATENT APPLICATION****AS A BELOW-NAMED INVENTOR, I HEREBY DECLARE THAT:**

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: **CANCER IMMUNOTHERAPY USING ALLOSTIMULATED CELLS IN A MULTIPLE SEQUENTIAL IMPLANTATION STRATEGY** the specification of which is attached hereto unless the following box is checked:

☒ was filed on September 29, 1998 as United States Application Serial No. 09/162,648.

I HEREBY STATE THAT I HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION, INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE.

I acknowledge the duty to disclose information which is material to the patentability as defined in 37 C.F.R. § 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application on which priority is claimed:

Application No.	Country	Date of Filing (day/month/year)	Priority Claimed?
			<input type="checkbox"/> Yes <input type="checkbox"/> No

I hereby claim benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

Application Serial No.	Filing Date

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information which is material to


COPY

patentability as defined in 37 C.F.R. § 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

Application Serial No.	Filing Date	Status
		<input type="checkbox"/> Patented <input type="checkbox"/> Pending <input type="checkbox"/> Abandoned

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

5/12/99
Date


Name: John C. Hiserodt
Residence: 6722 Lawn Haven Drive, Huntington Beach, CA 92648
Citizenship: U.S.A.
Post Office Address: Same as above

COPY

Applicant/Patentee: John C. Hiserodt

Serial No./Patent No.: 09/162,648

Filed on/Issued : September 29, 1998

For: CANCER IMMUNOTHERAPY USING ALLOSTIMULATED CELLS IN A MULTIPLE SEQUENTIAL IMPLANTATION STRATEGY

Bucket No.: 537452001100

**VERIFIED STATEMENT CLAIMING SMALL ENTITY STATUS
37 C.F.R. §§ 1.9(f) AND 1.27(c) — SMALL BUSINESS CONCERN**

I hereby declare that I am

- ☐ the owner of the small business concern identified below:
☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN: Meyer Pharmaceuticals, LLC

ADDRESS OF CONCERN: 1761 Kaiser Avenue, Irvine, California 92614

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 C.F.R. § 121.12, and reproduced in 37 C.F.R. § 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled CANCER IMMUNOTHERAPY USING ALLOSTIMULATED CELLS IN A MULTIPLE SEQUENTIAL IMPLANTATION STRATEGY by inventor(s) John C. Hiserodt, described in

- ☐ the specification filed herewith with title as listed above.
☒ the application identified above.
☐ the patent identified above.

If the rights held by the above identified business concern are not exclusive, each individual, concern or organization having rights in the invention must file separate verified statements averring to their status as small entities, and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 C.F.R. § 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 C.F.R. § 1.9(d), or a nonprofit organization under 37 C.F.R. § 1.9(e).

Each person, concern or organization having any rights in the invention is listed below:

- ☒ no such person, concern, or organization exists.
☐ each such person, concern or organization is listed below.

NAME	ADDRESS	TYPE
		<input type="checkbox"/> Individual <input type="checkbox"/> Small Business Concern <input type="checkbox"/> Nonprofit Organization

Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 C.F.R. § 1.27)

I acknowledge the duty to file, in this application or patent, notification or any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. § 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: Michael O'Neill
 TITLE OF PERSON IF OTHER THAN OWNER: President
 ADDRESS OF PERSON SIGNING: Meyer Pharmaceuticals, LLC
 1761 Kaiser Avenue
 Irvine, California 92614

SIGNATURE: 

DATE: 5-12-99

PTO/SB/10 (10-92)
 pa-321860

COPY

PTO/SB/96 (10-92)

CERTIFICATE UNDER 37 C.F.R. § 3.73(b)

Docket No. 337452001100

In the application of: John C. Hiserodt
Serial No.: 09/162,648
Filed: September 29, 1998
For: CANCER IMMUNOTHERAPY USING ALLOSTIMULATED CELLS IN A MULTIPLE
SEQUENTIAL IMPLANTATION STRATEGY

Meyer Pharmaceuticals, LLC, a California corporation, certifies that it is the assignee of the entire right, title and interest in the patent application identified above by virtue of:

A chain of title from the inventor(s) of the patent application identified above, to the current assignee as shown below:

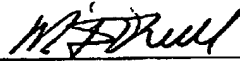
1. From : John C. Hiserodt
To: Meyer Pharmaceuticals, LLC
A true copy of each Assignment is attached hereto.

The undersigned has reviewed all the documents in the chain of title of the patent application identified above and, to the best of undersigned's knowledge and belief, title is in the assignee identified above.

The undersigned (whose title is supplied below) is empowered to sign this certificate on behalf of the assignee.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: 5-12-99


Name: Michael O'Neill
Title: President
Meyer Pharmaceuticals, LLC
1761 Kaiser Avenue
Irvine, California 92614

PTO/SB/96 (10-92)

Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

COPY**ASSIGNMENT
SOLE**

THIS ASSIGNMENT, by John C. Hiserodt (hereinafter referred to as the assignor), residing at 6722 Lawn Haven Drive, Huntington Beach, California 92648 witnesseth:

WHEREAS, said assignor has invented certain new and useful improvements in CANCER IMMUNOTHERAPY USING ALLOSTIMULATED CELLS IN A MULTIPLE SEQUENTIAL IMPLANTATION STRATEGY, set forth in an application for Letters Patent of the United States, having an oath or declaration executed on even date herewith; bearing Serial No. 09/162,648 and filed on September 29, 1998; and

WHEREAS, Meyer Pharmaceuticals, LLC a corporation duly organized under and pursuant to the laws of California and having its principal place of business at 1761 Kaiser Avenue, Irvine, California 92614 (hereinafter referred to as the assignee, Meyer Pharmaceuticals, LLC) is desirous of acquiring the entire right, title and interest in and to said inventions and said application for Letters Patent of the United States, and in and to any Letters Patent or Patents, United States or foreign, to be obtained therefor and thereon:

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other good and sufficient considerations, the receipt of which is hereby acknowledged, said assignor has sold, assigned, transferred and set over, and by these presents does sell, assign, transfer and set over, unto said assignee, Meyer Pharmaceuticals, LLC, its successors, legal representatives and assigns, the entire right, title and interest in and to the above-mentioned inventions, application for Letters Patent, and any and all Letters Patent or Patents in the United States of America and all foreign countries which may be granted therefor and thereon, and in and to any and all divisions, continuations and continuations-in-part of said application, or reissues or extensions of said Letters Patent or Patents, and all rights under the International Convention for the Protection of Industrial Property, the same to be held and enjoyed by said assignee, Meyer Pharmaceuticals, LLC, for its own use and the use of its successors, legal representatives and assigns, to the full end of the term or terms for which Letters Patent or Patents may be granted, as fully and entirely as the same would have been held and enjoyed by the assignor, had this sale and assignment not been made.

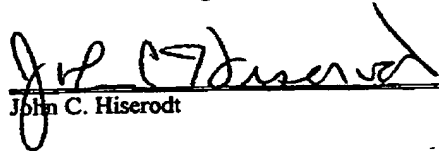
AND for the same consideration, said assignor hereby covenants and agrees to and with said assignee, Meyer Pharmaceuticals, LLC its successors, legal representatives and assigns, that, at the time of execution and delivery of these presents, said assignor is the sole and lawful owner of the entire right, title and interest in and to said inventions and the application for Letters Patent above-mentioned, and that the same are unencumbered and that said assignor has good and full right and lawful authority to sell and convey the same in the manner herein set forth.

AND for the same consideration, said assignor hereby covenants and agrees to and with said assignee, Meyer Pharmaceuticals, LLC, its successors, legal representatives and assigns, that said assignor will, whenever counsel of said assignee, or the counsel of its successor, legal representatives and assigns, shall advise that any proceeding in connection with said inventions, or said application for Letters Patent, or any proceeding in connection with Letters Patent for said inventions in any country, including interference proceedings, is lawful and desirable, or that any division, continuation or continuation-in-part of any application for Letters Patent or any reissue or extension of any Letters Patent, to be obtained thereon, is lawful and desirable, sign all papers and documents, take all lawful oaths, and do all acts necessary or required to be done for the procurement, maintenance, enforcement and defense of Letters Patent for said inventions, without charge to said assignee, Meyer Pharmaceuticals, LLC, its successors, legal representatives and assigns, but at the cost and expense of said assignee, Meyer Pharmaceuticals, LLC, its successors, legal representatives and assigns.

Attorney Docket No. 337452001100

AND said assignor hereby requests the Commissioner of Patents to issue said Letters Patent of the United States to said assignee, Meyer Pharmaceuticals, LLC as the assignee, Meyer Pharmaceuticals, LLC of said inventions and the Letters Patent to be issued thereon for the sole use said assignee, Meyer Pharmaceuticals, LLC, its successors, legal representatives and assigns.

5/12/99
Date


John C. Hiserodt

COPY

J. MICHAEL SCHIFF
PATENT AGENT
808 COLEMAN AVENUE, SUITE 19
MENLO PARK, CALIFORNIA 94025-2456, U.S.A.
PHONE & FAX: (650) 327-0960

FACSIMILE TRANSMISSION

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